

(11)

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 223/87

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198

DATE OF DECISION 20.6.1991.

Thakurdas B. Tolani Petitioner

Shri G.K. Masand Advocate for the Petitioner(s)

Versus

Union of India & Others. Respondent


Shri V.G. Rege, A Advocate for the Respondent(s)

**CORAM**

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, VICE CHAIRMAN.

The Hon'ble Mr. M.Y. PRIOLKAR, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ? ☒
2. To be referred to the Reporter or not ? ☒
3. Whether their Lordships wish to see the fair copy of the Judgement ? ☒
4. Whether in needs to be circulated to other Benches of the Tribunal ? ☒

  
 ( M.Y. PRIOLKAR )  
 MEMBER (A).

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, NEW BOMBAY.

O.A.223/87.

Thakurdas Bhawandas Tolani,  
205, Jai Manisha Society,  
Jai Hind Colony,  
G.G. Road, Dombivli (West),  
P.I.N. 421 202.

.. Applicant.

V/s.

1. Union of India, through  
General Manager,  
South Eastern Railway,  
Garden Reach,  
CALCUTTA - 700 043.
2. Chief Electrical Engineer,  
South Eastern Railway,  
Calcutta - 700 043.
3. Financial Adviser & Chief  
Accounts Officer,  
South Eastern Railway,  
Calcutta - 700 043.

.. Respondents.

Coram : Hon'ble Shri Justice U.C. Srivastava, Vice  
Chairman.

Hon'ble Shri M.Y. Priolkar, Member (A).

Appearances:

Shri G.K. Masand,  
Advocate  
for the applicant.

Shri V.G. Rege  
Advocate  
for the respondents.

ORAL JUDGMENT

DATE: 20.6.1991.

¶ PER : Hon'ble Shri M.Y. Priolkar, Member (A) ¶

The prayer of the applicant in this application is regarding payment of his retirement benefits like pension, gratuity, provident fund, leave encashment, travelling allowance etc., alongwith interest thereof, from 1.2.1986 i.e., the date of his retirement till payment.

O.A.223/87.

2. The respondents in their written reply have stated that all these payments were made except DCRG and commutation of pension which under the rules are required to be withheld since departmental proceedings for charges of misconduct are pending against him.

3. The learned counsel for the applicant contended that the charge sheet has been issued malafide after the applicant had filed this application before this Tribunal for certain reliefs.

4. After hearing counsel on both the sides and going through the pleadings, we are of the view that the respondents are liable to pay interest on payments<sup>indicated below,</sup> which have been delayed beyond three months from the date of his retirement.

5. As far as the Provident Fund is concerned, admittedly the amount has been paid within about three months from the date of retirement and therefore no further interest need be paid. In view of the pendency of departmental proceedings the applicant is not entitled for commutation of pension. But it is stated that provisional pension to the extent of maximum pension due has already been sanctioned and arrears have also been paid, though with a delay of nine months from the date of retirement. We direct, therefore, that interest on arrears be paid @ 12% per annum with effect from expiry of three months period from the date of retirement.

14

O.A.223/87.

Interest @ 12% from expiry of 3 months from the due date, that is, the date of submission of claim with full particulars till the date of actual payment on other payments such as transfer grant, leave salary etc., should also be paid wherever the actual payment has been made after a period of 3 months from the date of retirement. Regarding DCRG, since the charge in the departmental proceeding is about purchase of material of only about Rs.6,000/- which was procured at exceptionally high rates, we direct that only an amount of Rs.10,000/- (Rupees Ten thousand only) may be withheld and the remaining amount of DCRG be paid to the applicant with interest @ 12% per annum, with effect from three months after the date of retirement till the date of actual payment.

6. All these payments along with interest should be made with a period of three months from the date of receipt of a copy of this order and the interest should be calculated till date of payment.

7. It appears that another application has been filed before the Tribunal questioning the validity of the charge sheet bearing OA No.225/90. At this stage we would only direct that the departmental proceedings should be expedited and completed within a maximum period of four months from the date of receipt of a copy of this order.

O.A.223/87.

8. As regards commutation of pension admittedly no charge sheet had been issued and no proceedings had been initiated when the applicant had approached us on 23.5.1987 for this relief of commutation. Normally a retired employee is entitled to commutation value of 1/3rd pension admissible on the date of his retirement. In the absence of any proceedings, department was expected to sanction the commutation value within a maximum period of three months after his retirement. No rule has been shown to us nor any order of the Railway Administration to support the stand that merely in contemplation of a departmental proceeding or criminal proceeding the commutation can be refused and there is also no material before us to show that such departmental proceedings were in contemplation on the date of retirement of the applicant. In these circumstances and on the facts of this case, we direct that the respondents shall sanction within four months from the date of receipt of this order the commutation value of pension <sup>in accordance with rules</sup> provided a complete application in this regard is made by the applicant as prescribed under the rules within one month from the date of receipt of this order.

9. The application is disposed of with above directions with no order as to costs.

( M.Y. PRIOLKAR )  
MEMBER(A).

( U.C. SRIVASTAVA )  
VICE CHAIRMAN.